Entered - 02/17/04 - sb CL - 04L0110 - LISA CARTER

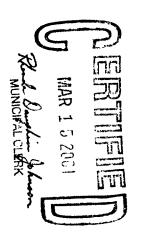
CLAIM OF: KEVIN D. KURITZKY 1016 Howell Mill Road #3409 Atlanta, Georgia 30318 04- 2 -0402



For damages alleged to have been sustained as a result of striking an open construction cut on February 10, 2004 at 1206 North Avenue.

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE:

BE IT RESOLVED by the Council of the City of Atlanta that the action of the Department of Law be approved in authorizing payment to **KEVIN D. KURITZKY** the sum of \$2,545.38 in full settlement and satisfaction of all claims, past, present and future, of every kind and character for vehicular damages alleged to have been sustained as a result of striking an open construction cut on February 10, 2004 at 1206 North Avenue as is more particularly set forth in the within claim; said sum taken from and charged to account 2J01/529017/T31001.



APPROVED: LINDA K. DISANTIS CITY ATTORNEY

BY:

JERRY L. DELOAČH DEPUTY CITY ATTORNEY

FAVORABLE REPORT

PUBLIC SAFTEY &

LEGAL ADMINISTRATION COMMITTEE

DATE:

CHALE

C. T.

Mary Jonwood

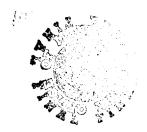
Carla Sit.

ADOPTED BY

MAR 1 5 2004

COUNCIL

MAYOR



MUNICIPAL CLERK ATLANTA, GEORGIA

04-R-0402

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

BE IT RESOLVED BY the Council of the City of Atlanta that the action of the Department of Law be approved in authorizing payment to Kevin D. Kuritzky in the sum of \$2,545.38 settlement and satisfaction of all claims, past, present and future, of every kind and character, for damages alleged to have been sustained as a result of striking an open construction cut on February 10, 2004 at 1206 North Avenue as set forth in the within claim; said sum taken from and charged to Account 2J01/529017/T31001, Settlement of Suits and Claims, Department of Law.

A true copy, Rhonda Laughin Johnson Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

March 15, 2004 March 23, 2004

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. <u>04L0110</u>	Date: February 24, 2004
Claimant /Victim KEVIN D. KURITZKY	
BY: (Atty) (Ins. Co.)	
Address: 1016 Howell Mill Road #3409 Atlanta,	Georgia 30318
Subrogation: Claim for Property damage \$	2,545.38 Bodily Injury \$ proper X Improper
Date of Notice: 02/17/04 Method: Written, p	proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5	Ante Litem (6 Mo.) X
Date of Occurrence 02/10/04 Pla	ace: 1206 North Avenue
Department Watershed Management But	reau: Water Division:
Employee involved	Disciplinary Action:
NATURE OF CLAIM. The element alleges that he sus	stained damages as a result of striking an open construction cut at 1206
North Avenue An investigation determined that the Water	er Bureau was working at this location and failed to properly secure its
construction cut.	El Bulcau was working at this location and fance to property secure its
CONDITION CAN.	
INVESTIGATION:	
Statements: City employee Claimant	Others Written Oral
Pictures X Diagrams Reports: Policy	ce X Dept Report Other X
Traffic citations issued: City Driver	Claimant Driver
Citation disposition: City Driver	Claimant Driver
BASIS OF RECOMMENDATION:	
Function: Governmental	Ministerial X
Improper Notice More than Six Months	Other Damages reasonable X
City not involved Offer reje	ected Compromise settlement
Repair/replacement by Ins. Co.	Repair/replacement by City ForcesX Claim Abandoned
Claimant Negligent City Negligent	X Joint Claim Abandoned
	Respectfully submitted,
	La Cinta
	INVESTIGATOR - LISA CARTER
RECOMMENDATION: ,	
	/)
Pay \$ 2,545.38 Adverse	Account charged: 1A01 2J01 X 2P01 2P01
Claims Manager:	Council Action
Committee Action:	Council Action

FORM 23-61

COUNCIL OF THE CITY OF ATLANTA MUNICIPAL CLERK

Signature of Claimant

City Hall 55 Trinity Avenue, SW Atlanta, Georgia 30303

RE: CLAIM F	C'AR OR DAMAGES	72/17/04
	2/14/04	D.

ENTERED -2-17-04 - SB

Dear Municipal Clerk:

04L0110 - LISA CARTER This is to notify the City of Atlanta that I have suffered damages in the amount of \$2206.50 and/or \$_____ bodily injury for which I contend the City is liable. 1. Date of incident: 2/10/04 2. Time of incident: 7:30 PM 3. Police called: YES 4. Location of incident (including street address): 1206 NORTH AVENUE PROGRESSIVE Policy No. _____ 5. Name of your insurance company: ____ 6. State what and how incident occurred: 350 attached lefter + documentation ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION! The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle. KEVIN KURITERY Your vehicle: TOYOTA PASSO 1994 708 XNE (Tag Number) (Driver's Name) City vehicle: (City Driver's Name) (Department/Bureau) Witness: CLARE J. EISENSTEIN CELL# 404-307-1923 10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s). 11. Claims must be received within 6 months from the date of the event. I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. 1016 1404 ELL MILL Rd # 3409 (Address)

404-307-5726 404-897-3459
-(Work Number) (Home Number)

Atlanta, GA 303/8 (City, State and Zip Code) February 12, 2004

From: Kevin Kuritzky 1016 Howell Mill Road #3409 Atlanta, GA 30318

To: City of Atlanta Dept of Public Works City of Atlanta Law Dept Diane Mitchell City Hall 55 Trinity Avenue, SW Atlanta, GA 30303 404-330-6490

At approx 7:30 Pm on February 10, 2004, I was driving Westbound on North Avenue near the intersection of Moreland. Approx 100 yds before reaching the intersection, my car was seriously damaged. Apparently, the city had **dug a trench in the street and only covered ½ the trench with a metal plate**. There were no cones or any other indicators, and considering it was raining and there is no streetlight there, this was obviously a dangerous situation.

My car's right hand side was seriously impacted in the trench, my car spun out, my tires blew out and I was rendered off the side of the street. The police were immediately called via 911 and 2 officers were dispatched to the scene. I explained what happened, a report was filed, and photographs of my car as well as the trench were taken. The officers acknowledged that this was the responsibility of the City of Atlanta, as they had previously notified the Dept of Public Works about this issue. Moreover, I had personally notified Lawrence Jeter in the Dept of Public Works on 2 occasions about this exact location. This was simply and clearly hazardous negligence on the part of the City of Atlanta for allowing such a dangerous situation to occur. Upon further investigation, the following was determined via an investigation by Ralph Clevenand, Vice President of Engineering of Atlanta Gas:

The City of Atlanta Water Dept dug this trench. They procured a metal plate from Clayton County belonging to Atlanta Gas and inadequately placed this over the trench. Atlanta Gas is presently attempting to resolve why the City of Atlanta took a metal plate that did not belong to them to cover a trench that the City dug. The supervisor in the Dept of water, Horace Best, stated that he would institute an internal investigation into this matter.

As you can note, this is rife with unethical, unsafe, and dangerous behavior that the City of Atlanta should not tolerate.

Attached is:

- (1) A Copy of the Police report and 911 documentation of the incident which occurred.
- (2) Photographs of both my vehicle and the trench which was allowed to exist as a dangerous hazard for any vehicle to drive nearby – note the scale and depth of the trench, and please be aware that this has existed for over 2 weeks without adequate repair.
- (3) Copies of the bill for towing my vehicle and repairing my vehicle's damage as a direct result of this incident which results from negligence of the Dept. of Public Works.
- (4) A letter from World Toyota on Peachtree Industrial certifying that the damage to my vehicle is consistent with my account of what occurred.

As you may note, I cannot even put a quantifiable estimate on:

- (1) The emotional distress this incident caused me as I was within inches of being seriously injured
- (2) The tremendous inconvenience this has created for me both in terms of repairing and towing my vehicle, and not having its use for my rotation in surgery as a medical student.

I expect prompt and complete reimbursement is warranted at the very least.

Sincerely,

Kevin D. Kuritzky

MUNICIPAL CLERK ATLANTA, GEORGIA

04-R-0402

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

BE IT RESOLVED BY the Council of the City of Atlanta that the action of the Department of Law be approved in authorizing payment to Kevin D. Kuritzky in the sum of \$2,545.38 settlement and satisfaction of all claims, past, present and future, of every kind and character, for damages alleged to have been sustained as a result of striking an open construction cut on February 10, 2004 at 1206 North Avenue as set forth in the within claim; said sum taken from and charged to Account 2J01/529017/T31001, Settlement of Suits and Claims, Department of Law.